

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

The State of Texas, et al.,

Plaintiffs,

v.

Google LLC,

Defendant.

Case No. 4:20-cv-00957-SDJ

Hon. Sean D. Jordan

**PLAINTIFF STATES' NOTICE REGARDING GOOGLE'S SUPPLEMENTAL BRIEF
ON ITS MOTION TO STRIKE PLAINTIFF STATES' JURY DEMAND**

After full briefing and hearing on Google's motion to strike Plaintiff States' jury demand, the Court ordered supplemental briefing on "the parties' precise arguments concerning the availability of jury trial for the States' DTPA and antitrust claims. Specifically, the Court requires detailed and comprehensive analyses from both sides on each State's antitrust and DTPA statutes, including analyses of the precise portions of each statute that are at issue in this case as to both liability and remedy." Dkt. 825. Plaintiff States submitted a supplemental brief that presents the arguments the Court requested. Dkt. 834. Google did not. It first helped itself to a different "supplemental brief regarding *Standard Oil Co. v. Arizona*," Dkt. 832, which, as Plaintiff States noted, "does not warrant a response," Dkt. 833 (offering to supply a response if the Court concludes one would be helpful). Now, Google has submitted a supplemental brief that covers issues on which the Court did not invite briefing and to which Plaintiff States have no opportunity to respond. In particular:

In Section III(B)(2)(b)(iii)(a) as to Arkansas’s state antitrust claim, *see* Dkt. 835 at 79–81, and in Section III(B)(2)(b)(iii)(b) as to Idaho’s state antitrust claim, *see id.* at 81–83, Google argues that “Arkansas and Idaho Cannot Recover Civil Penalties *or* Injunctive Relief,” *see id.* at 79–83, whether tried to a jury or to the Court. Setting aside its lack of merit, these arguments are for a dispositive motion. Google should not be allowed to brief new summary judgment issues after the summary judgment deadline, beyond the summary judgment page limitations, and in a context in which Plaintiff States cannot respond. *Cf.* Dkt. 217.

In Sections II(C)(1)(c), III(A)(2)(d), and III(B)(2)(b)(ii)(c), *see id.* at 14–15, 59–61, 78–79, Google argues for the first time that the Court lacks jurisdiction over Puerto Rico’s claims because they must be brought in Puerto Rico’s administrative tribunal. Here, the only proper question is whether the claims should be tried to this Court or to a jury. Shoe-horning in merits or jurisdictional arguments that apply to the *Court* trying the claims is improper.¹

Plaintiff States do not wish to respond to unnecessary briefing with a request for more unnecessary briefing. But neither do Plaintiff States wish for meritless arguments to appear stronger by standing un rebutted. To balance those considerations, Plaintiff States ask that if the Court considers Google’s arguments on either of the two merits issues above, it give Plaintiff States an opportunity to respond before issuing a ruling.

¹ Apart from those issues, Google took advantage of the generous page limitations to relitigate its argument that no state-by-state analysis of the penalties calculation is appropriate because the Court must decide the amount of civil penalties regardless of what state law says. *See* §§ II(A) and (B), Dkt. 835 at 5–9. And in Section III(A)(1), *see* Dkt. 835 at 20–32, Google devotes a dozen pages to similarly relitigate an issue on which it already had the last word: whether, for Seventh Amendment purposes, the Plaintiff States’ DTPA claims are more analogous to common-law actions than to actions in equity. *See* Dkt. 690 at 3–4 (motion, making this argument); Dkt. 753 at 4–5 (response); Dkt. 767 at 1 (reply). Plaintiff States understood the Court to be requesting *state-by-state* briefing, not further argument on federal law.

DATED: April 9, 2025

Respectfully submitted,

/s/ W. Mark Lanier

W. Mark Lanier

Mark.Lanier@LanierLawFirm.com

Alex J. Brown

Alex.Brown@LanierLawFirm.com

Zeke DeRose III

Zeke.Derose@LanierLawFirm.com

Jonathan P. Wilkerson

Jonathan.Wilkerson@LanierLawFirm.com

10940 W. Sam Houston Pkwy N.

Suite 100

Houston, TX 77064

(713) 659-5200

/s/ Ashley Keller

Ashley Keller

ack@kellerpostman.com

Kiran N. Bhat

kiran.bhat@kellerpostman.com

2333 Ponce De Leon Boulevard

Suite R-240

Coral Gables, Florida 33134

(833) 633-0118

Zina Bash (Bar No. 24067505)

zina.bash@kellerpostman.com

111 Congress Avenue, Suite 500

Austin, TX 78701

(512) 690-0990

THE LANIER LAW FIRM, PLLC

/s/ Noah S. Heinz

Noah S. Heinz

noah.heinz@kellerpostman.com

1101 Connecticut Ave., N.W., Suite 1100

Washington, DC 20036

(202) 918-1123

KELLER POSTMAN LLC

Counsel for Texas, Idaho, Louisiana (The Lanier Law Firm only), Indiana, Mississippi, North Dakota, South Carolina, and South Dakota

Submitted on behalf of all Plaintiff States

NORTON ROSE FULBRIGHT US LLP

Joseph M. Graham, Jr.

joseph.graham@nortonrosefulbright.com

Geraldine Young

geraldine.young@nortonrosefulbright.com

1550 Lamar Street, Suite 2000

Houston, Texas 77010

(713) 651-5151

Marc B. Collier

Marc.Collier@nortonrosefulbright.com

98 San Jacinto Blvd., Suite 1100

Austin, Texas 78701

(512) 474-5201

FOR PLAINTIFF STATE OF TEXAS

KEN PAXTON
Attorney General

/s/ Brent Webster

Brent Webster, First Assistant Attorney General of Texas
Brent.Webster@oag.texas.gov

STATE OF TEXAS, OFFICE OF THE ATTORNEY GENERAL
P.O. Box 12548
Austin, TX 78711-2548
(512) 936-1674

Attorneys for Plaintiff State of Texas

FOR PLAINTIFF STATE OF ALASKA:

TREG TAYLOR
ATTORNEY GENERAL

By: /s/ Jeff Pickett

Jeff Pickett

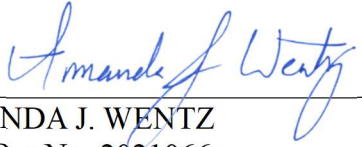
Senior Assistant Attorney General, Special Litigation Section

jeff.pickett@alaska.gov

Attorney for Plaintiff State of Alaska

FOR PLAINTIFF STATE OF ARKANSAS:

TIM GRIFFIN
ATTORNEY GENERAL

By: 
AMANDA J. WENTZ

Ark. Bar No. 2021066
Assistant Attorney General
Office of the Arkansas Attorney General
323 Center Street, Suite 200
Little Rock, AR 72201
(501) 682-1178
Amanda.Wentz@ArkansasAG.gov

Attorney for Plaintiff State of Arkansas

FOR PLAINTIFF STATE OF FLORIDA:

JAMES UTHMEIER, Attorney General

/s/ Lee Istrail

LEE ISTRAIL, Assistant Attorney General
FL Bar No. 119216

LIZABETH A. BRADY, Director, Antitrust Division
R. SCOTT PALMER, Special Counsel and Chief of Complex Enforcement
ANDREW BUTLER, Assistant Attorney General
CHRISTOPHER KNIGHT, Assistant Attorney General

Office of the Attorney General, State of Florida
PL-01 The Capitol
Tallahassee, Florida 32399
Phone: 850-414-3300
Email: scott.palmer@myfloridalegal.com

Attorneys for Plaintiff State of Florida

FOR PLAINTIFF STATE OF IDAHO:

RAÚL R. LABRADOR
Attorney General

/s/ John K. Olson
John K. Olson, Deputy Attorney General

Consumer Protection Division
Office of the Attorney General
954 W. Jefferson Street, 2nd Floor
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 334-2424
john.olson@ag.idaho.gov

Attorneys for Plaintiff State of Idaho

FOR PLAINTIFF STATE OF INDIANA:

THEODORE E. ROKITA
Attorney General

/s/ Jesse J. Moore

Jesse J. Moore
Deputy Attorney General – Consumer Litigation
302 W. Washington St.
IGCS - 5th Floor
Indianapolis, IN 46204-2770
Phone: (317) 234-1479
Fax: (317) 232-7979
Email: jesse.moore@atg.in.gov

Attorneys for Plaintiff State of Indiana

FOR PLAINTIFF COMMONWEALTH OF KENTUCKY:

RUSSELL COLEMAN
Attorney General

/s/ Philip R. Heleringer

Christian J. Lewis, Commissioner of the Office of Consumer Protection
christian.lewis@ky.gov

Philip R. Heleringer, Executive Director of the Office of Consumer Protection
philip.heleringer@ky.gov

Jonathan E. Farmer, Deputy Executive Director of the Office of Consumer Protection
jonathan.farmer@ky.gov

Office of the Attorney General

Commonwealth of Kentucky

1024 Capital Center Drive, Suite 200

Frankfort, Kentucky 40601

Tel: 502-696-5300

Attorneys for Plaintiff Commonwealth of Kentucky

FOR PLAINTIFF STATE OF LOUISIANA:

By: /s/ Patrick Voelker

Liz Murrill, Attorney General

Michael Dupree, Assistant Attorney General

Patrick Voelker, Assistant Attorney General

Office of the Attorney General, State of Louisiana

Public Protection Division

1885 North Third St.

Baton Rouge, Louisiana 70802

(225) 326-6400

voelkerp@ag.louisiana.gov

s/ James R. Dugan, II

James R. Dugan, II (*pro hac vice*)

TerriAnne Benedetto (*pro hac vice*)

The Dugan Law Firm

365 Canal Street

One Canal Place, Suite 1000

New Orleans, LA 70130

PH: (504) 648-0180

FX: (504) 649-0181

EM: jdugan@dugan-lawfirm.com

tbenedetto@dugan-lawfirm.com

James Williams

CHEHARDY SHERMAN WILLIAM, LLP

Galleria Boulevard, Suite 1100

Metairie, LA 70001

PH: (504) 833-5600

FX: (504) 833-8080

EM: jmw@chehardy.com

Attorneys for Plaintiff State of Louisiana

FOR PLAINTIFF STATE OF MISSISSIPPI:

LYNN FITCH, ATTORNEY GENERAL
STATE OF MISSISSIPPI

By: /s/ Garrett S. Mascagni
Garrett S. Mascagni
Special Assistant Attorney General
Consumer Protection Division
Mississippi Attorney General's Office
Post Office Box 220
Jackson, Mississippi 39205
Telephone: 601-359-4223
Fax: 601-359-4231
Garrett.Mascagni@ago.ms.gov

Attorney for Plaintiff State of Mississippi

FOR PLAINTIFF STATE OF MISSOURI:

ANDREW BAILEY

Attorney General

/s/ Michael Schwalbert

Michael.Schwalbert@ago.mo.gov

Missouri Attorney General's

Office

815 Olive St.

Suite 200

St. Louis, MO 63101

Tel: 314-340-7888

Attorneys for Plaintiff State of Missouri

FOR PLAINTIFF STATE OF MONTANA:

AUSTIN KNUDSEN
Montana Attorney General

/s/ Anna Schneider

Anna Schneider
Montana Attorney General's Office
P.O. Box 200151
Helena, MT 59620-0151
Phone: (406) 444-4500
Fax: (406) 442-1894 Anna.Schneider@mt.gov

/s/ Charles J. Cooper

Charles J. Cooper
ccooper@cooperkirk.com
David H. Thompson
dthompson@cooperkirk.com
Brian W. Barnes
bbarnes@cooperkirk.com
Harold S. Reeves
hreeves@cooperkirk.com
COOPER & KIRK PLLC
1523 New Hampshire Avenue, NW
Washington DC 20036
Phone: (202) 220-9620
Fax: (202) 220-9601

Attorneys for Plaintiff State of Montana

FOR PLAINTIFF STATE OF NEVADA:

AARON D. FORD

Attorney General

ERNEST D. FIGUEROA

Consumer Advocate

/s/ Michelle C. Badorine

Michelle C. Badorine, Senior Deputy

Attorney General

MNewman@ag.nv.gov

Lucas J. Tucker (NV Bar No. 10252)

Senior Deputy Attorney General

LTucker@ag.nv.gov

Office of the Nevada Attorney General

100 N. Carson St.

Carson City, Nevada 89701

Tel: (775) 684-1100

Attorneys for Plaintiff State of Nevada

FOR PLAINTIFF STATE OF NORTH DAKOTA:

STATE OF NORTH DAKOTA

Drew H. Wrigley
Attorney General

By: /s/ Elin S. Alm
Elin S. Alm, ND ID 05924
Assistant Attorneys General
Consumer Protection & Antitrust Division
Office of Attorney General of North Dakota
1720 Burlington Drive, Suite C, Bismarck, ND 58503-7736
(701) 328-5570
(701) 328-5568 (fax)
ealm@nd.gov

Attorneys for Plaintiff State of North Dakota

FOR PLAINTIFF COMMONWEALTH OF PUERTO RICO:

/s/ Domingo Emanuelli-Hernández

Domingo Emanuelli-
Hernández Attorney General
Thaizza Rodríguez Pagán
Assistant Attorney
General PR Bar No.
17177
P.O. Box 9020192
San Juan, Puerto Rico 00902-0192
Tel: (787) 721-2900, ext. 1201, 1204
trodriguez@justicia.pr.gov

Kyle G. Bates
HAUSFELD LLP
600 Montgomery Street, Suite 3200
San Francisco, CA 94111

Attorneys for Plaintiff Commonwealth of Puerto Rico

FOR PLAINTIFF STATE OF SOUTH CAROLINA:

ALAN WILSON
Attorney General

/s/ Mary Frances Jowers

Mary Frances Jowers
Assistant Deputy Attorney General
W. Jeffrey Young
Chief Deputy Attorney General
C. Havird Jones, Jr.
Senior Assistant Deputy Attorney General
South Carolina Attorney General's Office
P.O. Box 11549
Columbia, South Carolina 29211-1549
Phone: 803-734-5855
Email: mjowers@scag.gov

Charlie Condon
Charlie Condon Law Firm, LLC
880 Johnnie Dodds Blvd, Suite 1
Mount Pleasant, SC 29464
Phone: 843-884-8146
Email: charlie@charliecondon.com

James R. Dugan, II (*pro hac vice*)
The Dugan Law Firm
365 Canal Street
One Canal Place, Suite 1000
New Orleans, LA 70130
Phone: (504) 648-0180
Email: jdugan@dugan-lawfirm.com

Attorneys for Plaintiff State of South Carolina

FOR PLAINTIFF STATE OF SOUTH DAKOTA:

MARTY JACKLEY
Attorney General

/s/ Jonathan Van Patten

Jonathan Van Patten
Assistant Attorney General
Office of the Attorney General
1302 E. Highway 14, Suite 1
Pierre, SD 57501
Tel: 605-773-3215
jonathan.vanpatten@state.sd.us

Attorney for Plaintiff State of South Dakota

FOR PLAINTIFF STATE OF UTAH:

Derek Brown
Attorney General of Utah

/s/ Matthew Michaloski

Matthew Michaloski
Assistant Attorney General
Marie W.L. Martin
Deputy Division Director
Utah Office of the Attorney General
160 East 300 South, 5th Floor
P.O. Box 140811
Salt Lake City, UT 84114
mmichaloski@agutah.gov
Telephone: (801) 440-9825

*Attorneys for Plaintiff State of Utah and
as counsel for the Utah Division of Consumer Protection*

CERTIFICATE OF SERVICE

I certify that on April 9, 2025, this document was filed electronically in compliance with Local Rule CV-5(a) and served on all counsel who have consented to electronic service, per Local Rule CV-5(a)(3)(A).

/s/ Ashley Keller
Ashley Keller